IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2456 OF 2006

MR. S.K. MALKAR ..APPLICANT

V/S

M/S. UNIT TRUST OF INDIA & ORS. ..RESPONDENTS

MS. LATA DESAI WITH MS. PALAVI DIVEKAR.
SHRI A.P. MUNDARGI, SR. COUNSEL I/B M/S. HARSHAD & CO. FOR RESPONDENT NO.1.
MRS. M.M. DESHMUKH - APP FOR STATE.

CORAM: V.M. KANADE, J.

DATE : 17TH OCTOBER, 2007.

P.C.

1. Heard learned counsel appearing on behalf of Applicant and the Respondents. This is an application for setting aside the order passed by this court dated 3-2-2006 whereby the Application filed by the Respondent being Application No. 4078 of 2000 was allowed and Criminal Case No. 402/S of 1996 was set aside. The learned counsel appearing on behalf of the Applicant submits that the order was passed ex-parte. It is submitted that her name was not shown on the board and therefore she could not appear in the said case though her Vakalatnama was already filed on behalf of the Respondent.

2. Perusal of the said order dated 6-3-2000 indicate that the Criminal Applicaltion No. 4078 of 2000 was decided on merits. It is urged that in view of the provisions of section 23 of the Maharashtra Private Security Guards (Regulation of Employment & Welfare) Act, 1981 the Unit Trust of India was exempted from the purview of the said Act by virtue of the notification being issued by the Government exempting the Unit Trust of India from the purview of the said Act. In support of the said submission reliance was placed on the letter which was annexed as Exhibit "D" to the Application and therefore the said application is allowed and criminal case is quashed. Learned counsel appearing on behalf of the Applicant/Original Respondent No. 2 submitted that the said letter which was annexed to the Application was in fact the letter issued by the Desk Officer and that no notification has been issued. Then the application was restored to file since the Respondent No. 2 was not heard in the matter. It is not possible to accept the submission of the counsel appearing on behalf of the Applicant. In view of the provisions of section 362 of the Code of Civil Procedure this court cannot review its own Judgement and Order passed in Criminal Application. The counsel appearing on behalf of the Respondent has candidly stated that the name of the Applicant or his counsel was not shown on the board. Be as it may, in my

view it is not possible to review my own order in view

of the bar under section 362 of the Code of Civil Procedure. Therefore the Applicant may take out appropriate proceeding for the purpose of challenging the said order by filing S.L.P. before the Supreme Court. Application is therefore dismissed.

(V.M. KANADE, J)